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8 **UNITED STATES DISTRICT COURT**
9 **NORTHERN DISTRICT OF CALIFORNIA**
10

11 MICHAEL ZELENY,

12 Plaintiff,

13 vs.

14 GAVIN NEWSOM, *et al.*,

15 Defendants.
16
17

Case No. CV 17-7357 JCS

Assigned to:

The Honorable Richard G. Seeborg

Discovery Matters:

The Honorable Thomas S. Hixson

**STIPULATION TO CONTINUE DATES
DUE TO DELAYS CAUSED BY
CORONAVIRUS (COVID-19)
PANDEMIC**

Action Filed: December 28, 2017

Trial Date: June 8, 2020
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20 **A. Recitals**

21 1. The parties have worked diligently to complete discovery in this matter on the
22 current schedule and have completed all but three depositions.

23 2. On March 4, 2020, the Governor declared a State of Emergency for California
24 due to the Coronavirus (COVID-19) pandemic.

25 3. On March 13, 2020, the President declared a national emergency due to the
26 Coronavirus pandemic.

27 4. Due to the nature of this case, including that several central witnesses are public
28 officials, the Coronavirus pandemic has directly impacted the parties' ability to complete

discovery on schedule.

a. Alex McIntyre, the former City Manager of Menlo Park and now City Manager of the City of Ventura, was set to be deposed in this case on March 13, 2020. Since the Coronavirus outbreak he has been fully engaged on public health and safety issues surrounding the City of Ventura's response. He was required to cancel his deposition as a result, and it is unclear when he will be able to sit for a deposition.

4. The deposition of defendant Chief Dave Bertini was set for March 19, 2020. Chief Bertini is currently in Europe. He is not certain when he will be able to return to the United States, or whether he will be able to return in time for his deposition. His deposition will likely be rescheduled.

5. All parties believe that it would be beneficial to have approximately 60 days to intelligently address the remaining discovery after the severity of the Coronavirus outbreak, and its impact on their ability to go forward, is understood.

NOW, THEREFORE, all parties have agreed and stipulated as follows:

1. Subject to the Court's approval, the parties have agreed to continue discovery and dispositive motion deadlines by approximately 60 days, as follows:

- a. Fact Discovery Cut-Off from March 16, 2020 to May 15, 2020.
- b. Expert Disclosures from March 30, 2020 to May 29, 2020
- c. Rebuttal Expert Disclosures: April 20, 2020 to June 19, 2020.
- d. Expert Discovery Cut-Off: May 11, 2020 to July 10, 2020
- e. Dispositive Motion Hearings: June 4, 2020 to August 6, 2020

2. In light of the still-developing situation, the parties further agree and jointly request that the Court vacate the current trial and Pre-Trial Conference dates, and set a status conference in approximately 60 days to reset those dates.

It is SO STIPULATED.

Dated: March 13, 2020

Respectfully submitted,

s/ Damion Robinson
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Damion D. D. Robinson
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Attorneys for Plaintiff Michael Zeleny

s/ Todd H. Master

Todd H. Master

Howard Rome Martin & Ridley LLP

Attorneys for Defendants City of Menlo Park and

Dave Bertini

s/ John W. Killeen

John W. Killeen

Deputy Attorney General

California Department of Justice

Attorney for Defendant Xavier Becerra

ATTESTATION PER LOCAL RULE 5-1

I attest that each person whose electronic signature appears above has concurred in the electronic filing of this joint document and has authorized the use of their electronic signatures. Records supporting this concurrence are maintained by the filer and are available for inspection if needed.

Dated: March 16, 2020

s/ Damion Robinson

Damion Robinson

PROOF OF SERVICE

I hereby certify that on March 16, 2020, I electronically filed the foregoing document using the Court's CM/ECF system. I am informed and believe that the CM/ECF system will send a notice of electronic filing to the interested parties.

/s Damion Robinson
Damion Robinson